

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

Case Number 1:15-CV-0096-GCM

Brian D. Mote,)
Social Security #2429)
Plaintiff)

)
v.)

ORDER

)
CAROLYN W. COLVIN,)
Commissioner of Social Security)
Defendant)

THIS MATTER is before the Court on the parties Consent Motion for Attorney Fees under the Equal Access to Justice Act 28 U.S.C. § 2412(d)(1)(A). [Doc. 19].

The parties advise the Court that they have stipulated and agreed to an award to Plaintiff of \$5,000.00 for full settlement in satisfaction of any and all claims for attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d) as well as reimbursement for filing fees [Doc. 19]. In light of this Court's judgment for plaintiff in this cause, and in the absence of any contention by the Commissioner that her position was substantially justified or that special circumstances exist that would render an award of attorney's fees unjust, the Court concludes that the Plaintiff is entitled to an award of attorney's fees under the EAJA.

The parties request that the EAJA award be paid directly to Plaintiff's counsel as his assignee if plaintiff does not otherwise owe a federal debt. In support of this request, plaintiff's counsel has submitted plaintiff's assignment of EAJA fees to his attorney. [Attachment to Doc. 19]. The Court finds that the Commissioner should accept this assignment of the awarded fees by the Plaintiff to his attorney and upon receipt of such assignment, the Commissioner will pay that award of fees directly to Plaintiff's counsel,

provided that it is shown that as of the date of this Order, the Plaintiff does not owe any debt to the United States Government which is subject to offset. See *Astrue v. Ratliff*, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010).

IT IS, THEREFORE, ORDERED that the Plaintiff's Motion for Attorney Fees under the Equal Access to Justice Act 28 U.S.C. § 2412(d)(1)(A) [Doc. 19] is hereby **GRANTED**, and the Plaintiff is hereby awarded attorney's fees in the amount of \$5,000.00, which sum is in full satisfaction of any and all claims by the Plaintiff in this case pursuant to 28 U.S.C. § 2412(d).

IT IS FURTHER ORDERED that in the event that past-due benefits are awarded on remand, the Plaintiff shall have thirty (30) days after being served with notice of the past-due benefits award to file for an award of fees pursuant to the Social Security Act, 42 U.S.C. § 406(b).

IT IS FURTHER ORDERED that Plaintiff shall be reimbursed for his filing fees of \$400 in this cause.

IT IS FURTHER ORDERED that no additional Petition pursuant to 28 U.S.C. § 2412(d) may be filed.

IT IS SO ORDERED.

Signed: July 12, 2016

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

